

Appl. No. 10/724,084

Amendment dated: May 3, 2007

Reply to OA of: February 7, 2007

### **REMARKS**

Applicants have amended the claims to more particularly define the invention taking into consideration the outstanding Official Action. Applicants note with appreciation the Examiner's statement with respect to the specification and drawings and submit they will keep this under consideration during the prosecution of the present application. Applicants note that claims 1-9, 16-33 and 36-51 have been withdrawn from the present application as being drawn to a non-elected invention. These claims have been canceled from the application without prejudice or disclaimer and preserving all rights to this subject matter which may be made the subject of a divisional application in due course.

Applicants have amended claim 10 in view of the outstanding Official Action. The amendments to the claims are fully supported by the application as originally filed. In particular, please note pages 46 and 49. Applicants submit that the claims now present in the application are fully supported by the specification as originally filed and no new matter is introduced.

The rejection of claims 10-15, 34 and 35 under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention has been carefully considered but is most respectfully traversed in view of the amendments to the claims and the following comments.

In claim 10, "the frying vessel having open hollow substantially parallelepiped shape with vertically extending four sidewalls and a single bottom wall" is fully supported by the specification at page 49, lines 6-10 and FIG. 2. In addition, "HB/SB<sup>1/2</sup> = 1.1 to 3.0" is fully supported at page 51, lines 9-10 of the specification. Furthermore, in claim 10, "the open portion" (first occurrence) has been changed to "an open portion". Accordingly, it is most respectfully requested that this rejection be withdrawn.

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Applicants most respectfully submit that all of the claims now present in the application are in full compliance with 35 USC 112 and clearly patentable over the references of record.

The rejection of claims 10-15, 34 and 35 under 35 USC 102(b) as being clearly anticipated by either one of Moore, Koopman or Cahlander has been carefully considered but is most respectfully traversed in view of the amendments to the claims and the following comments. Each of these rejections have been carefully considered but are most respectfully traversed in view of the amendments to the claims as discussed above. Applicants wish to direct the Examiner's attention to MPEP § 2131 which states that to anticipate a claim, the reference must teach every element of the claim.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed Cir. 1989). The elements must be arranged as required by the claim, but this is not an *ipsissimis verbis* test, i.e., identity of terminology is not required. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed.Cir. 1990).

Applicants submit that the present invention is represented by amended claim 10 and provides a fry cooking device which can suppress the deterioration of frying oil.

To suppress deterioration of frying oil, it is very effective to simultaneously achieve the following: 1) decrease in the contact area of the frying oil with the air; and, 2) increase in the turnover rate of the frying oil, as described at page 5, lines 1-5 of the present specification.

A frying method achieving the requirements 1) and 2) above at the same time means frying ingredients in a frying oil layer having a surface area as small as possible, and an oil amount as small as possible.

However, in the prior art frying method and fry cooking device ( $HB/SB^{1/2} < 0.8$  specifically shown in FIG. 5), when the frying oil amount is reduced and the frying oil vessel is made small, the amount of ingredients which can be fried at one time is largely reduced, presenting large problems in practice (for example, please compare the maximum numbers of products of the fry cooking device of invention 5 and conventional cooking device 3, where the number is 8 in the former case, while the number is 4 in the latter case). This is because only cooking devices which have a shape longer in the lateral direction than in the vertical direction exist in the prior art.

Contrary to the prior art technical common sense noted above, in the present invention, the requirements 1) and 2) can be met and yet the amount of ingredients which can be fried at one time is not decreased by satisfying a relationship of  $HB/SB^{1/2} = 1.1$  to 3.0. Thus, the present invention can simultaneously achieve the prevention of deterioration of the frying oil and the practicability.

The relationship of  $HB/SB^{1/2} = 1.1$  to 3.0 means that the frying oil vessel of the present invention is longer in the vertical direction than in the lateral direction. The frying vessel having such a shape can not be inferred from the prior art technical common sense at all.

Moore, et al. (US 4,287,818) discloses a cooking system having a fry pot unit 14. However, the fry pot unit 14 is described only on column 5, lines 11-16, which reads "Referring to FIGS. 1 and 4, the fry pot 14 is a deep flat frying unit provided for cooking food portions such as breaded chicken which comprises an open mouth 40 having side walls 42 joined by end walls 44 and a bottom 46 which in combination define a vat or basin for receiving liquid shortening or cooking oil." The fry pot 14 is shown in FIG. 4 as having a shape longer in the lateral direction than in the vertical direction.

Moore et al. does not disclose a fry cooking device, comprising one or more frying oil vessels, the frying vessel having open hollow substantially parallelepiped shape with vertically extending four sidewalls and a single bottom wall and satisfying a relationship of  $HB/SB^{1/2} = 1.1$  to 3.0, where SB denotes an area of an open portion of the vessel, and HB denotes the depth of the vessel, as required by amended claim

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10 of the present application at all. Accordingly, it is most respectfully requested that this rejection be withdrawn.

Koopman (US 4,854,227) discloses a fry basket, and FIG. 1 shows fry basket 10 placed in cooking vat 16. The cooking vat 16 shown in FIG. 1 has a shape longer in the lateral direction than in the vertical direction.

Koopman does not disclose a fry cooking device, comprising one or more frying oil vessels, the frying vessel having open hollow substantially parallelepiped shape with vertically extending four sidewalls and a single bottom wall and satisfying a relationship of  $HB/SB^{1/2} = 1.1$  to  $3.0$ , where SB denotes an area of an open portion of the vessel, and HB denotes the depth of the vessel, as required by amended claim 10 of the present application at all. Accordingly, it is most respectfully requested that this rejection be withdrawn.

Cahlander et al. (US 4,922,435), like Moore et al. and Koopman, does not disclose a frying vessel having a shape longer in the vertical direction than in the lateral direction. The frying vessel is shown in FIGS. 31 and 35, where the vessel is shown as having a shape longer in the lateral direction than in the vertical direction.

Cahlander et al. does not disclose a fry cooking device, comprising one or more frying oil vessels, the frying vessel having open hollow substantially parallelepiped shape with vertically extending four sidewalls and a single bottom wall and satisfying a relationship of  $HB/SB^{1/2} = 1.1$  to  $3.0$ , where SB denotes an area of an open portion of the vessel, and HB denotes the depth of the vessel, as required by amended claim 10 of the present application, either. Accordingly, it is most respectfully requested that this rejection be withdrawn.

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In view of the above comments and further amendments to the claims, favorable reconsideration and allowance of all the claims now present in the application are most respectfully requested.

Respectfully submitted,  
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